DOCUMENT RESUME

ED 352 205 PS 021 035

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TITLE	The Rights of Homeless Students.
INSTITUTION	Illinois State Board of Education, Springfield.
SPONS AGENCY	Department of Education, Washington, DC.
PUB DATE	91
NOTE	12p.
PUB TYPE	Guides - Non-Classroom Use (055) -- Reports - Descriptive (141)
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	*Access to Education; *Admission Criteria; Attendance; *Disadvantaged Youth; Elementary School Students; Elementary Secondary Education; *Enrollment; Grievance Procedures; *Homeless People; Public Education; *Residence Requirements; School Districts; Secondary School Students; Special Education; Student Records
IDENTIFIERS	Illinois; *Stewart B McKinney Homeless Assistance Act 1987

ABSTRACT

This booklet presents information concerning homelessness and the education of homeless children nationwide and in Illinois. Estimates of the number of homeless children vary widely. Reasons for homeless children's failure to attend school include school residency requirements, delays in transfer of documents, and lack of transportation. The Stewart B. McKinney Homeless Assistance Act, passed by the United States Congress in 1987, was based on the premises that homeless children must be afforded the right to education and that states must revise school residency laws that prevent homeless children from attending school. A series of questions and answers addresses characteristics of homeless individuals, the process of determining the school district in which a homeless child may attend school, the situation of children who live apart from their parents, the availability of special services to homeless children, delays in obtaining school records, and documentation of children's immunizations. The education provisions of the McKinney Act are described, and the procedures for filing grievances and appeals of rulings are explained. Organizations in Washington, D.C. and Illinois that serve the needs of homeless people are listed. (BC)

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THE RIGHTS OF HOMELESS STUDENTS

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ACKNOWLEDGEMENT

This brochure was prepared with funds provided in whole by the U.S. Department of Education, pursuant to the Stewart B. McKinney Homeless Assistance Act, Title VII-B, by Penny Strong, under contract with the Illinois State Board of Education, Urban and Ethnic Education Section.

omelessness in America is reaching crisis proportions, and still the statistics continue to mount.

Nationwide, estimates of the number of homeless people range from a modest federal figure of more than 350,000 (U.S. Department of Housing and Urban Development, 1986), to three million (National Coalition for the Homeless, 1987).

Likewise, estimates of the number of homeless children and youth vary radically. A U.S. Department of Education report, based on state estimates, asserts that there are about 220,000 homeless school-age children, about one-third of whom do not attend school on a regular basis. The National Coalition for the Homeless, however, estimates at least twice as many homeless children, and that more than a quarter million of them do not attend school regularly.

One fact, however, is indisputable. All school-age children must attend school regularly, and homeless children especially should not discontinue their education, even temporarily.

In Illinois, it is estimated that 20,000 children and youth are homeless, and that 9,000 of them do not attend school. The reasons for nonattendance are numerous and diverse:

- The parents are preoccupied with survival needs
- Guardianship/residency requirements frequently delay enrollment

- School records transfer delays or lack of required health care documents delay enrollment
- Lack of family or personal stability
- Lack of transportation
- Shelter contact is too short to consider enrollment
- School-age parents lack child care
- Lack of primary and mental health care services and insufficient state-funded shelters and alternative placement options
- Psychological inhibitions
- Parents' fear of losing the children to the state

Ironically, there is little argument that homeless children are among those considered most "at risk" for educational failure, and could benefit greatly from state-funded intervention programs offered in the public school system.

"We didn't go to school while we were living in the motel. We were only there for a little while, and anyway, I guess it was too far."

Tracey, aged 10

THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

Congress passed the comprehensive Stewart B. McKinney Homeless Assistance Act in 1987 to provide assistance to the country's growing homeless population. The Act includes a section that addresses the educational needs of homeless children and youth.

The education provisions are based on two premises:

- All homeless children must be afforded the same right to a free, appropriate education as given to non-homeless students
- All states must review, and if necessary, revise their school residency laws in order to preclude their use in barring homeless children from attending school

While Illinois does have a statewide residency law under The School Code, a legal analysis of case law supports the opinion that Illinois' law has long guaranteed homeless individuals the same right to a free public education as that available to other Illinois residents. Further, under the education provisions of the McKinney Act, the Illinois residency requirement may not be used to bar enrollment of any homeless child in a school district. In addition, rules regarding guardianship must be waived for homeless students living with foster parents or relatives other than their legal guardians.

The McKinney Act instituted a two-year federal grant program calling for each State Board of Education to establish an office of the Coordinator of Education of Homeless Children and Youth. Each office is charged with producing a State Plan to ensure compliance with the Act.

Following is a guide to help parents, students, schools and social service providers increase their understanding of the Education of Homeless Children and Youth Program, Title VII, Subtitle B, Section 721-722.

Q. How is a "homeless individual" defined?

A. Under the McKinney Act, a homeless individual is either:

1) an individual who lacks a fixed regular and adequate nighttime residence; or

2) an individual who has a primary nighttime residence that is

a) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters and transitional housing for the mentally ill); or

b) an institution that provides a temporary residence for individuals intended to be institutionalized, or

c) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

Q. How is the proper school district determined for a homeless student?

A. Under the McKinney Act, the local educational agency of each homeless child or youth shall either continue the child's or youth's education in the school district of origin for the remainder of the school year or enroll the child or youth in the school district where the child or youth is actually living, whichever is in the child's or youth's best interest.

Q. How is the child's or youth's best interest determined?

A. Under Section 10-20.12a of the Illinois School Code, a student moving during the course of the school year has the option of completing the year either in the old or new district. The decision rests with the student and parents or guardians.

Q. What about children living with someone other than their parents, or living on their own?

A. The selection of the proper school district or attendance

center for a homeless student must be made regardless of whether the child or youth is living with the parents or has been temporarily placed elsewhere or is living independently.

Q. What special programs are available to homeless children in the school?

A. Each homeless child must be provided services comparable to services offered to all other students in the school selected. These include all educational services for which the child is eligible, including special education; bi-lingual programs; vocational education; gifted programs; and school meals programs.

Q. Can a homeless child be enrolled in a public school before previous school records are obtained?

A. Delays in obtaining previous school records may not deter enrollment of any homeless student. All school districts must maintain records so that they are available, in a timely fashion, when a child or youth enters a new district; and expedite records transfer to a new school when a child transfers.

Q. Can a homeless child be enrolled in a public school without proper immunization documentation?

A. Many homeless children lack the immunizations required under the School Code. Schools may delay enrollment of homeless children for this reason, but are encouraged to offer timely information and assistance to the parents or guardians of such children.

Q. How will technical disputes concerning placement be resolved?

A. See page 7.

Q. Who is the statewide Coordinator of Education of Homeless Children and Youth within the State Board of Education?

A. John Edwards. He can be reached at (312) 814-3606.

EDUCATION PROVISIONS OF THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

Each state shall adopt a plan to provide for the education of each homeless child or homeless youth within the state which will contain provisions designed to authorize the state educational agency, the local educational agency, the parents or guardians of the homeless child, the homeless youth, or the applicable social worker to make the determinations required under this section.

Each state educational agency shall ensure that each child of a homeless individual and each homeless youth have access to a free, appropriate public education which would be provided to the children of the resident of a state and is consistent with the state school attendance laws; and in any state that has a residency requirement as a component of its compulsory school attendance laws, the state will review and undertake steps to revise such laws to assure that the children of homeless individuals and youth are afforded a free and appropriate public education.

To the extent practicable, the local educational agency of each homeless child or youth shall either continue the child's or youth's education in the school district of origin for the remainder of the school year, or enroll the child or youth in the school district where the child or youth is actually living, whichever is in the child's best interest or the youth's best interest. The choice regarding placement shall be made regardless of whether the child or youth is living with the homeless parents or has been temporarily placed elsewhere by the parents. In constructing its state plan, the Department of Education urges the state to give deference to the wishes of parents or guardians of homeless children and youth and to the wishes of the homeless youth.

Each state shall adopt a plan to provide procedures for the resolution of disputes regarding the educational placement of homeless children and youth.

Each homeless child shall be provided services comparable to services offered to other students in the school selected, including educational services for which the child meets the eligibility criteria, such as compensatory educational programs for the disadvantaged, and educational programs for the handicapped and for students with limited English proficiency; programs in vocational education; programs for the gifted and talented, and school meals programs.

To the extent practicable, local educational agencies shall cause the school records of each homeless child or youth to be maintained so that the records are available in a timely fashion when a child or youth enters a new school district; and in a manner consistent with Section 438 of the General Education Provision Act. and;

Each state shall gather data on the number and location of homeless children and youth in the state, and such data gathering shall include the nature and extent of problems of access to, and placement of, homeless children and homeless youth in elementary and secondary schools, and the difficulties in identifying the special needs of such children.

GRIEVANCE PROCEDURE

This grievance procedure applies to any persons alleging the abridgement of the educational rights of homeless children and youth. In addition to being published in the State Plan, an implementing policy statement will be adopted by the Illinois State Board of Education and forwarded to each public school district in the state for posting. At a minimum, the policy will contain the name, address and telephone number of the person at the state level to be notified in case of a complaint and a statement to the effect that all other eligibility requirements having been met, the homeless student will be allowed to continue schooling in the district of origin or where actually living during the pendency of an appeal.

Appeal Procedure

1) Initial information will be recorded or received on a standard referral form. The form will be date stamped upon receipt or completion of transcription. Referral information will be accepted by mail, walk-in or telephone.

2) Support staff will refer a copy of referral to Homeless Supervisor immediately upon completion for validation.

3) Following validation, the Project Supervisor shall coordinate the mediation process and conclude a decision within five days of complaint validation. All parties to the dispute will be provided with a written copy of the decision.

4) Should mediation fail, the matter shall be referred automatically to Recognition and Supervision by the Project Director for review and possible renewed mediation. Within five days of receipt, all parties, including the Project Supervisor, will be notified of the decision as concluded.

5) Should the dispute remain unresolved, the matter shall be referred to the State Board of Education Legal Division for disposition. Disposition shall proceed along the course of a negotiated resolution or due process hearing conducted by the Legal Division or a third party. A decision will be concluded within 30 days and all parties will be notified.

FOR YOUR INFORMATION...

The following are organizations that may be of assistance:

John Edwards
Urban and Ethnic Education
Illinois State Board of Education
100 W. Randolph
Suite 14-300
Chicago, IL 60601

Homelessness Information Exchange
1830 Connecticut Avenue, N.W.
4th floor
Washington, D.C. 20009

Children's Defense Fund
406 E. Monroe
Springfield, IL 62706

Illinois State Support Center
Land of Lincoln Legal Assistance Foundation
343 S. Dearborn #1017
Chicago, IL 60604

Illinois Department of Children and Family Services
100 W. Randolph
Chicago, IL 60601

or

406 E. Monroe
Springfield, IL 62701

Illinois Coalition for the Homeless
P.O. Box 2751
Chicago, IL 60690

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